IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 20065 of 2004(L)

OS.181/2003 of PRINCIPAL MUNSIFF,ALAPPUZHA

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PETITIONER:

R.THANKAPPAN, S/O. RAMANKUTTY,
THAIYIL HOUSE, KALAVOOR VILLAGE,
MARARIKULAM SOUTH PANCHAYATH, ALAPPUZHA.

BY ADV. SRI.J.OM PRAKASH

RESPONDENTS:

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1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIATE, THIRUVANANTHAPURAM.

2. DEPUTY TAHSILDAR (R.R), ALAPPUZHA.

3. VILLAGE OFFICER,
KALAVOOR VILLAGE, ALAPPUZHA.

BY GOVT. PLEADER MR.SHYSON P.MANGUZHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 20065/04)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE PLAINT IN O.S.NO.181/03 DATED 10.3.2003.

EXT.P2: TRUE COPY OF THE ORDER IN O.S.181/03 DATED 21.5.2004 OF THE PRINCIPAL MUNSIFF'S COURT, ALAPPUZHA.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.20065 of 2004

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Dated: 13th June, 2007

JUDGMENT

This Writ Petition is remaining defective. But the respondents are the Government and the public officers. Mr.Shyson P.Manguzha, Government Pleader takes notice on behalf of the respondents.

2. Heard both sides. Ext.P2 order of the learned Munsiff finding that the valuation of the suit for injunction filed by the petitioner is not proper and that the suit is to be valued on the basis of the proviso to Section 27(c) of the Kerala Court Fees and Suits Valuation Act is under challenge. Mr.J.Omprakash, counsel for the petitioner would assail Ext.P2 strongly by inviting my attention to the judgment of the Division Bench of this court in **Sreekumaran v. State of Kerala** (1996(2) KLT 21) and the judgment of the learned Single Judge of this court in **Itty v. State of Kerala** (1997(2) 597). Counsel submitted that the judgment in **Kunharamu v. Kunhalankutty** (2003(1) KLT 216) which was relied by the learned Munsiff was not applicable to the facts of this case wherein the suit was one simpliciter for injunction and it is admitted by the Government itself through their written statement that the petitioner-plaintiff is not the debtor and that there is no intention on the part of the defendants to

attach the property belonging to the petitioner-plaintiff. Notwithstanding the persuasive submissions of Mr.Omprakash, I am not prepared to say that the impugned order warrants correction by this court in the supervisory jurisdiction of this court under Article 227 of the Constitution which is visitorial in nature and is expected to be invoked only is exceptional circumstances and it cannot be said that the order is wholly unreasonable or directly offends the law either statutory or settled. The decision relied on by the learned Munsiff does apply to the plaint in question. The challenge against Ext.P2 fails and the Writ Petition is dismissed. The petitioner is granted one more month's time for complying with the directions under Ext.P2.

srd **PIUS C.KURIAKOSE, JUDGE**